In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.15232-M of 2007

.....

Date of decision:13.8.2007

Jaivir alias Jaibir s/o Jage Ram

.....Petitioner

v.

State of Haryana

.....Respondent

....

Present: Mr. K.D.S. Hooda, Advocate for the petitioner.

Mr. Vikas Chaudhary, Assistant Advocate General, Haryana for the respondent-State.

.....

S.S. Saron, J.

Heard learned counsel for the parties.

The petitioner seeks regular bail in case FIR registered against him for the offences under Sections 452, 307, 302, 506 and 34 IPC. In terms of the final report (challan) filed by the Police under Section 173 Cr.P.C. the offences under Sections 452, 306 and 34 IPC and Sections 307 and 302 IPC are stated to have been deleted.

The FIR in the case has been registered on the complaint of Surender Singh son of Jage Ram. It is alleged that on 24.10.2006 when the complainant Surender Singh was coming to his cattle after taking his meals then at about 11.00 p.m. Satya Parkash, Inder Singh and Jaivir Singh (petitioner) sons of Jage Ram and Sunil wife of Satya Parkash came to him in his `Gher'. Sunil was carrying an oil can. Satya Parkash, Inder Singh and Jaivir Singh (petitioner) caught hold of the complainant and Sunil

sprinkled oil from the can on him. All the four told the complainant that he be taught a lesson for demanding land and house. Satya Parkash took out a match box from his pocket and lit a match stick and set the complainant ablaze. The complainant raised noise and his brother-in-law Rakesh, who was there, came to the `Gher'. The assailants left the complainant and ran away when Rakesh, the brother-in-law of the complainant came there. The complainant was brought to the General Hospital at Jhajjar where he was admitted and thereafter he was referred to PGI, Rohtak. The cause of the grudge was division of the landed property amongst the brothers.

Learned counsel for the petitioner has submitted that after registration of the case the Police during investigation found that the version given by Surender Singh (deceased) to be false. They have, therefore, filed a report in terms of Section 173 Cr.P.C. alleging commission of the offence under Section 306 IPC while dropping the charges under Section 302 IPC. Besides, the other accused have been found innocent during investigation. Learned counsel for the petitioner has referred to the zimni dated 23.12.2006 (Annexure-P.9) wherein the statements of various persons were recorded and investigation were carried out. It was concluded by Inspector CIA Staff, Jhajjar in terms of the investigation carried out and recorded in the zimini dated 23.12.2006 (Annexure-P.9) that the present case had been wrongly registered under Sections 307 and 302 IPC and after investigation the case according to the Investigating Officer fell under Section 306 IPC. Accordingly, case has been registered under Section 306 IPC. Besides, Sunil wife of Satya Parkash and Inder Singh son of Jage Ram were found innocent. Therefore, it is submitted that the petitioner may be admitted to bail.

In response, learned counsel for the State has submitted the certified copy of the charge-sheet dated 8.8.2007. The same is taken on record. A perusal of the charge-sheet would show that the learned Additional Sessions Judge, Jalandhar has framed charge for the offence under Section 452 IPC. Besides, charge for the offence punishable under Section 302 read with Section 34 IPC and in the alternative the offence under Section 306 read with Section 34 IPC. Therefore, it is submitted that the petitioner is not entitled to the concession of bail.

I have given my thoughtful consideration to the matter. The dispute in the case is between brothers with regard to the partition of the property. The nature of allegations and the investigation carried out do not, at this stage, show as to whether the petitioner committed the offence of murder or whether he abetted and instigated in the commission of suicide of Surender Singh (deceased). The deceased Surender Singh sold one plot and his father Jage Ram asked him for the share in the amount. Then Surender forcibly occupied the house of Jage Ram. Proceedings under Sections 107 and 151 Cr.P.C. were initiated against Surender. A Panchayat was also convened and Surender was asked to pay Rs.50,000/-. Besides, he has caused injuries to his mother and father. He had also been pressurizing Jaivir (petitioner) and his father Jage Ram for compromise. There is delay in the registration of the FIR, inasmuch as, the occurrence took place on 24.10.2006 and the FIR has been registered on 26.10.2006. The petitioner is in custody since 8.11.2006. The question whether the petitioner is guilty for the offence of murder or offence of abetment of commission of suicide is to be gone into after evidence has been led. The charge in the case has, as already notice, been framed on 8.8.2007. The trial in the case is likely to

take time. In the facts and circumstances, no useful purpose would be served in keeping the petitioner further imprisoned.

Consequently, the criminal miscellaneous petition is allowed and the petitioner during the pendency of the case shall be admitted to bail on his furnishing personal bond and surety to the satisfaction of learned Chief Judicial Magistrate, Jhajjar in respect of the offences for which he has been charge-sheeted by the learned Additional Sessions Judge, Jhajjar vide charge-sheet dated 8.8.2007.

August 13, 2007. **(S.S. Saron)**
Judge

hsp